IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

FRIDAY, THE 27TH JULY 2007 / 5TH SRAVANA 1929

WP(C).No. 12014 of 2007(E)

PETITIONER:

J.ELIZABETH,(RETD.),SWEEPER,ST.XAVIERS COLLEGE,THUMBA,THAIVILAKOM,ST.GORETTY LANE, PALLITHURA,THIRUVANANTHAPURAM.

BY ADV. SRI.SUMAN CHAKRAVARTHY

RESPONDENTS:

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1. THE STATE OF KERALA RPRESENTED BY ITS CHIEF SECRETARY GOVT.SECRETARIAT, THIRUVANANTHAPURAM.

2. THE SUB-TREASURY OFFICER,KAZHAKOOTAM, THIRUVANANTHAPURAM.

3. THE PRINCIPAL ST.XAVIERS COLLEGE,THUMBA, THIRUVANANTHAPURAM DISTRICT.

4. THE ANANTHAPURAM CO-OPERATIVE SOCIETY LTD.NO.T 184,KAITHAMUKKU,THIRUVANANTHAPURAM.

5. C.MAHESH,MANAKKALLIVILAKAM HOUSE, NEHRU JN,KAZHAKKOOTAM,THIRUVANANTHAPURAM.

*6. DIRECTOR OF COLLEGIATE EDUCATION THIRUVANANTHAPURAM

*7. DEPUTY DIRECTOR OF COLLEGIATE EDUCATION, KOTTAYAM

ADDL. RESPONDENTS 6 & 7 ARE IMPLEADED AS PER ORDER DT. 20.7.07 IN I.A. 9807/07

BY GOVT. PLEADER SRI. A.J. VARGHESE
ADV. SRI.RAM MOHAN.G.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 27/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC NO 12014/07

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1. COPY OF THE CORRESPONDENCE DT. 4.11.06

EXT.P2. COPY OF THE GRATUITY PAYMENT ORDER

EXT.P3. COPY OF THE COMMUNICATION DT. 28.2.06 BY THE 4TH RESPONDENT

/TRUE COPY/

PA TO JUDGE.

A.K. BASHEER, J.

W.P.(C). NO. 12014 OF 2007

Dated this the 27th day of July, 2007

J U D G M E N T

Petitioner, retired as a Lab Assistant, while working in St. Xavier's College, Thumba, under the management of respondent No.3, on April 30, 2006 after putting in more than 24 years of service.

2. Grievance of the petitioner is that her Death Cum Retirement Gratuity is being withheld by respondents 1 to 3 without any valid reasons. It is contended by the petitioner that refusal on the part of respondent No.3, the Principal of the College, to forward the Non Liability Certificate to respondents 6 and/or 7 is totally unjustifiable.

3. It appears that respondent No.4 Co-operative Society had issued Ext.P3 communication in February 2006 to the Principal requesting him "to take urgent necessary steps to recover an amount Rs. 2,000/- per month from the salary" of the petitioner and send the same to the Society. Therefore the Principal had informed the petitioner that he could not issue the NLC in view of Ext.P3 communication. A mere perusal of Ext.P3 will reveal the hollowness of the stand taken by the Principal. What has been requested is only to recover an amount of Rs.2,000/- per month from the salary of the petitioner and not to realise the same from her DCRG or other retiral benefits.

4. There is yet another aspect of the matter. As noticed already, petitioner had retired from service on April 30, 2006. It is admitted by the petitioner that she was one of the two guarantors for a loan advanced by the Society to respondent No.5. It is the specific case of petitioner that loan was advanced by the Society on the strength of the mortgage of an immovable property furnished by respondent No.5. Apart from the petitioner there was yet another co-guarantor. It is also the case of the petitioner that the Society has already proceeded against the principal debtor and the co-guarantor. More importantly, petitioner had not given any written consent to respondent No.5 or to any other authority agreeing to effect the recovery from her retiral benefits.

5. In the counter affidavit, it is averred by respondent No.7 that the benefits are not being disbursed to the petitioner due to non receipt of Non Liability Certificate from the Principal of the college. As soon as NLC is received, respondent No.6 is prepared to counter sign the bill. Though respondents 3 to 5 have been served with notice, they have not even bothered to file their counter affidavit. There is considerable force in the contention raised by the petitioner that respondents are not entitled to withhold the retrial benefits to her.

In the above facts and circumstances the writ petition is allowed. Respondent No.3 shall issue NLC in relation to the petitioner and forward the same to the additional respondent No.6 and / or respondent No.7 as

expeditiously as possible, at any rate, within two weeks from the date of receipt of a copy of this judgment, if there is no legal impediment other than what has been referred to above. On receipt of the NLC, respondent No. 6 and/or respondent No.7 shall ensure that petitioner receives the benefits within six weeks from the date of receipt thereof.

A.K. BASHEER, JUDGE

vps

A.K. BASHEER, JUDGE

OP NO.20954/00

JUDGMENT

1ST MARCH, 2007